Remarks

The Office Action mailed September 26, 2005 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1-26, 34, 36-45, 47-50 and 57 are pending in this application. Claims 1-56 stand rejected. Claims 27-33, 35, 46 and 51-56 have been cancelled. Claim 57 has been newly added. No new matter has been added.

The rejection of Claims 1-56 under 35 U.S.C. § 103(a) as being unpatentable over Tilton (U.S. Patent No. 6,654,727) in view of Baseman et al. (U.S. Patent No. 2002/0147666) ("Baseman") is respectfully traversed.

Applicants respectfully submit that neither Tilton nor Baseman, considered alone or in combination, describe or suggest the claimed invention. As discussed below, at least one of the differences between the cited references and the present invention is that no combination of Tilton and Baseman describe or suggest a method for analyzing a deal that includes generating a cash flow data table from various data sources wherein the data table includes data relating to each asset included within the portfolios, importing cash flow data from the data table into a cash flow model, and *automatically segmenting cash flow data by potential asset disposition types utilizing the cash flow model wherein each asset has a potential asset disposition type assigned thereto*. (Emphasis added.)

Moreover, no combination of Tilton and Baseman describe or suggest a method that includes determining a cash flow timing and an expense timing for each asset included within the portfolios based on the potential asset disposition type assigned thereto, determining cash flow projections for the deal based on the determination of cash flow timings and expense timings for each asset included within the portfolios, and *performing sensitivity analysis using a Monte Carlo Simulation Model to provide different scenarios based on a variety of assumptions retrieved from the database including expected timing of recoveries, amount of recoveries, interest rates, and expenses wherein the Simulation Model generates a probabilistic distribution*

of a possible value of the deal including risk associated with uncertainty of future events.
(Emphasis added.)

Furthermore, no combination of Tilton and Baseman describe or suggest a method that includes *exporting cash flow projections into a pre-determined format to develop financially attractive bids for the deal that takes into account a variety of foreseeable risks.* (Emphasis added.)

Tilton describes a platform and a securitization methodology that provides lenders with an opportunity to "maximize the returns on their distressed commercial credit facilities and overcomes the obstacles that have historically precluded the securitization of distressed commercial loans." (See Abstract.) The present invention is based upon an underlying portfolio of at least 30% (and up to 100%) distressed commercial credit facilities for securitization that emulates the predictability and regularity of the cash flow and recovery characteristics of a portfolio of performing credit facilities. The methodology of the present invention takes a specified mix of distinct classifications of distressed credit facilities with specified characteristics in confluence with structural specifications for an SPE (special purpose entity), such as specific reserves and safeguards, to create a synthetic asset class that emulates the cash flow and recovery characteristics of an SPE containing a portfolio (which may be of dissimilar size) of performing credit facilities. As such, the portfolio of distressed credit facilities is amenable to securitization and the issuance of asset-backed debt securities (above any equity or equity-like tranche or tranches of securities issued by the SPE) all of which are eligible to receive investment grade ratings.

Tilton provides the following example of its invention in practice: an SPE purchases a portfolio of at least 30% (and up to 100%) of distressed commercial credit facilities from a lender for an aggregate purchase price comprised of (i) a cash purchase price comparable to what the lender would have received in a bulk sale into the marketplace, or realized on a net, discounted cash flow basis if the lender had retained the distressed credit facility portfolio and utilized its internal workout effort, and (ii) an additional investment grade asset or assets with a value on the date of purchase, for example, in the range of 10-15% of the face amount of the

aggregate funded amounts included in the distressed credit facility portfolio. The Tilton invention allows the lender to replace the distressed commercial credit facilities on its balance sheet with cash and investment grade assets with an aggregate value likely to be substantially greater than the amount the lender otherwise would have received in a "straight sale" for cash to a distressed asset investor or other third party. Furthermore, the methodology of the present invention also allows a lender to remove distressed commercial credit facilities from its balance sheet with the opportunity of receiving economic benefits likely greater than would be realized on a net discounted cash flow basis through internal workout efforts by the lender if the lender had retained the distressed assets.

Baseman describes a value-based framework used for managing inventory. The framework allows firms to set risk and return targets for inventory related capital investments and operational management. A set of possible inventory investments is generated, and a value of possible inventory investments is then computed. The value of possible inventory investments is computed by first decomposing cash flows associated with the inventory investment into a combination of cash flows that can be represented by a portfolio comprised of long and short positions in an underlying asset. Then a valuation methodology is used to compute the value of each long and short position in the portfolio. The values of each long and short position in the portfolio is summed to determine a value of the portfolio. The value of the inventory investment is set equal to the value of the portfolio. An inventory investment with a best value is selected.

Claim 1 recites a method for analyzing a deal that includes portfolios of distressed financial assets including loans or other financial instruments, the method uses a network-based system including a server system coupled to a centralized database and at least one client system, the method includes the steps of "generating a cash flow data table from various data sources, the data table including data relating to each asset included within the portfolios...importing cash flow data from the data table into a cash flow model...automatically segmenting cash flow data by potential asset disposition types utilizing the cash flow model, each asset having a potential asset disposition type assigned thereto...determining a cash flow timing and an expense timing for each asset included within the portfolios based on the potential asset disposition type assigned thereto, the determination of the timings performed using the cash flow

model...determining cash flow projections for the deal based on the determination of cash flow timings and expense timings for each asset included within the portfolios...performing sensitivity analysis using a Monte Carlo Simulation Model to provide different scenarios based on a variety of assumptions retrieved from the database including expected timing of recoveries, amount of recoveries, interest rates, and expenses, the Simulation Model generates a probabilistic distribution of a possible value of the deal including risk associated with uncertainty of future events...and exporting cash flow projections into a pre-determined format to develop financially attractive bids for the deal that takes into account a variety of foreseeable risks."

Neither Tilton nor Baseman, alone or in combination, describe or suggest the method recited in Claim 1. More specifically, neither Tilton nor Baseman, considered alone or in combination, describe or suggest a method for analyzing a deal that includes generating a cash flow data table from various data sources wherein the data table includes data relating to each asset included within the portfolios, importing cash flow data from the data table into a cash flow model, and *automatically segmenting cash flow data by potential asset disposition types utilizing the cash flow model wherein each asset has a potential asset disposition type assigned thereto.* (Emphasis added.)

Notably, neither Tilton nor Baseman, alone or in combination, describe or suggest automatically segmenting cash flow data by potential asset disposition types wherein each asset has a potential asset disposition type assigned thereto.

Moreover, neither Tilton nor Baseman, considered alone or in combination, describe or suggest a method that includes *determining a cash flow timing and an expense timing for each asset included within the portfolios based on the potential asset disposition type assigned thereto*, determining cash flow projections for the deal based on the determination of cash flow timings and expense timings for each asset included within the portfolios, and *performing sensitivity analysis using a Monte Carlo Simulation Model to provide different scenarios based on a variety of assumptions retrieved from the database including expected timing of recoveries, amount of recoveries, interest rates, and expenses wherein the Simulation Model generates a*

probabilistic distribution of a possible value of the deal including risk associated with uncertainty of future events. (Emphasis added.)

Furthermore, no combination of Tilton and Baseman describe or suggest a method that includes *exporting cash flow projections into a pre-determined format to develop financially attractive bids for the deal that takes into account a variety of foreseeable risks.* (Emphasis added.)

As stated above, neither Tilton nor Baseman describe or suggest each asset included within the portfolio having a potential asset disposition type assigned thereto. Accordingly, no combination of Tilton and Baseman describes or teaches determining a cash flow timing and an expense timing for each asset included within the portfolios based on the potential asset disposition type assigned thereto.

The Office Action acknowledges that Tilton does not teach "performing sensitivity analysis using a Monte Carlo Simulation Model to provide different scenarios based on a variety of assumptions retrieved from the database..." However, the Office Action asserts that Baseman teaches this recitation. Applicants traverse this assertion.

Baseman merely describes a table that shows "a small example that uses Monte Carlo approach to calculate the inventory quantities that maximizes expected profit...Optimal inventory quantities as well as profit associated with the demand sample shown in the table are calculated." (Para. 0044). However, Baseman does not describe or teach performing sensitivity analysis using a Monte Carlo Simulation Model *to provide different scenarios based on a variety of assumptions retrieved from the database including expected timing of recoveries, amount of recoveries, interest rates, and expenses wherein the Simulation Model generates a probabilistic distribution of a possible value of the deal including risk associated with uncertainty of future events.* (Emphasis added.) Applicants submit that merely using a Monte Carlo approach to calculate inventory quantities for maximizing expected profit as described in Baseman does not teach the recitation included within Claim 1. Accordingly, Applicants respectfully submit that Claim 1 is patentable over Tilton in view of Baseman.

For at least the reasons as set forth above, Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of Claim 1 be withdrawn.

Claims 2-12 depend from independent Claim 1 which is submitted to be in condition for allowance. When the recitations of Claims 2-12 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 2-12 are also patentable over Tilton in view of Baseman.

Claim 13 recites a system for managing portfolio cash valuation for analyzing a deal that includes a portfolio of distressed financial assets including loans or other financial instruments, the system includes at least one client system, at least one server system coupled to a database for storing data, and a network connecting the at least one client system to the server system, wherein the server system is configured to "generate a cash flow data table from various data sources, the data table including data relating to each asset included within the portfolios…import cash flow data from the data table into a cash flow model…automatically segment cash flow data by potential asset disposition types utilizing the cash flow model, each asset having a potential asset disposition type assigned thereto…determine a cash flow timing and an expense timing for each asset included within the portfolio based on the potential asset disposition type assigned thereto, the determination of the timings performed using the cash flow model…determine cash flow projections for the deal based on the determination of cash flow timings and expense timings for each asset included within the portfolio…perform a sensitivity analysis using a Monte Carlo Simulation Model to provide different scenarios based on a variety of assumptions retrieved from the database including expected timing of recoveries, amount of recoveries, interest rates, and expenses, the Simulation Model generates a probabilistic distribution of a possible value of the deal including risk associated with uncertainty of future events…and export cash flow projections into a pre-determined format to develop financially attractive bids for the deal that takes into account a variety of foreseeable risks."

Claim 13, as herein amended, recites a system comprising, among other things, at least one server configured to perform steps essentially similar to those recited in Claim 1. Thus, it is

submitted that Claim 13 is patentable over the combination of Tilton and Baseman for reasons that correspond to those given with respect to Claim 1.

For at least the reasons as set forth above, Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of Claim 13 be withdrawn.

Claims 14-26 depend from independent Claim 13 which is submitted to be in condition for allowance. When the recitations of Claims 14-26 are considered in combination with the recitations of Claim 13, Applicants submit that dependent Claims 14-26 are also patentable over Tilton in view of Baseman.

Claims 27-33 have been cancelled.

Claim 34 recites a computer program embodied on a computer readable medium for analyzing a deal that includes a portfolio of distressed financial assets including loans or other financial instruments, the computer program is capable of being processed by a server system coupled to a centralized interactive database and at least one client system, the computer program includes "a code segment that receives information from various data sources...a code segment that generates a cash flow data table from various data sources, the data table including data relating to each asset included within the portfolio...a code segment that imports cash flow data from the data table into a cash flow model...a code segment that automatically segments cash flow data by potential asset disposition types utilizing the cash flow model, each asset having a potential asset disposition type assigned thereto...a code segment that determines a cash flow timing and an expense timing for each asset included within the portfolio based on the potential asset disposition type assigned thereto, the determination of the timings performed using the cash flow model...a code segment that determines cash flow projections for the deal based on the determination of cash flow timings and expense timings for each asset included within the portfolio...a code segment that performs sensitivity analysis using a Monte Carlo Simulation Model to provide different scenarios based on a variety of assumptions retrieved from the database including expected timing of recoveries, amount of recoveries, interest rates, and expenses, the Simulation Model generates a probabilistic distribution of a possible value of the deal including risk associated with uncertainty of future events...and a code segment that

exports cash flow projections into a pre-determined format to develop financially attractive bids for the deal that takes into account a variety of foreseeable risks."

Claim 34, as herein amended, recites a computer program that includes a code segment programmed to perform steps essentially similar to those recited in Claim 1. Thus, it is submitted that Claim 34 is patentable over the combination of Tilton and Baseman for reasons that correspond to those given with respect to Claim 1.

For at least the reasons as set forth above, Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of Claim 34 be withdrawn.

Claim 35 has been cancelled. Claims 36-43 depend from independent Claim 34 which is submitted to be in condition for allowance. When the recitations of Claims 36-43 are considered in combination with the recitations of Claim 34, Applicants submit that dependent Claims 36-43 are also patentable over Tilton in view of Baseman.

Claim 44 recites a centralized database for analyzing a deal that includes a portfolio of distressed financial assets including loans or other financial instruments, the database includes "data corresponding to generating a cash flow data table from various data sources, the data table including data relating to each asset included within the portfolio...data corresponding to importing cash flow data from the data table into a cash flow model...data corresponding to automatically segmenting cash flow data by potential asset disposition types utilizing the cash flow model, each asset having a potential asset disposition type assigned thereto...data corresponding to determining a cash flow timing and an expense timing for each asset included within the portfolio based on the potential asset disposition type assigned thereto, the determination of the timings performed using the cash flow model...data corresponding to determining cash flow projections for the deal based on the determination of cash flow timings and expense timings for each asset included within the portfolio...data corresponding to performing sensitivity analysis using a Monte Carlo Simulation Model to provide different scenarios based on a variety of assumptions retrieved from the database including expected timing of recoveries, amount of recoveries, interest rates, and expenses, the Simulation Model generates a probabilistic distribution of a possible value of the deal including risk associated with

uncertainty of future events...and data corresponding to exporting cash flow projections into a pre-determined format to develop financially attractive bids for the deal that takes into account a variety of foreseeable risks."

Claim 44, as herein amended, recites a centralized database that includes data corresponding to steps essentially similar to those recited in Claim 1. Thus, it is submitted that Claim 44 is patentable over the combination of Tilton and Baseman for reasons that correspond to those given with respect to Claim 1.

For at least the reasons as set forth above, Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of Claim 44 be withdrawn.

Claim 46 has been cancelled. Claims 45 and 47-50 depend from independent Claim 44 which is submitted to be in condition for allowance. When the recitations of Claims 45 and 47-50 are considered in combination with the recitations of Claim 44, Applicants submit that dependent Claims 45 and 47-50 are also patentable over Tilton in view of Baseman.

Claims 51-56 have also been cancelled.

For at least the reasons as set forth above, Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of Claim 1-56 be withdrawn.

In addition to the argument set forth above, Applicants respectfully submit that the Section 103 rejection of Claims 1-56 is not a proper rejection. Obviousness cannot be established by merely suggesting that it would have been obvious to one of ordinary skill in the art to modify Tilton using the teachings of Baseman. More specifically, as is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combinations. It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to

the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither suggestion nor motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Neither Tilton nor Baseman, considered alone or in combination, describe or suggest the combination(s) in Claims 1-56. Rather, the Section 103 rejection of Claims 1-56 appears to be based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Specifically, Tilton describes a platform and a securitization methodology that provides lenders with an opportunity to maximize the returns on their distressed commercial credit facilities and overcomes the obstacles that have historically precluded the securitization of distressed commercial loans; and Baseman describes a value-based framework used for managing inventory. Since there is neither teaching nor suggestion for the combination of Tilton and Baseman, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason also, Applicants request that the Section 103 rejection of Claims 1-56 be withdrawn.
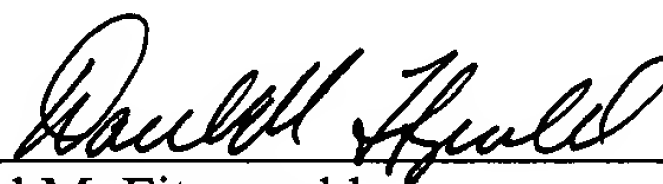
For at least the reasons set for above, Applicants respectfully request that the Section 103 rejection of Claims 1-56 be withdrawn.

Newly added Claim 57 is an independent claim that recites a "computer for analyzing a deal that includes a portfolio of distressed financial assets including loans or other financial instruments…" The computer of Claim 57 is programmed to perform steps essentially similar to

those recited in Claim 1. Thus, it is submitted that Claim 57 is patentable over the combination of Tilton and Baseman for reasons that correspond to those given with respect to Claim 1.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,

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